



172

## PATENT APPLICATION

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q78134

HUGHES, LAURENCE GERALD, et al.

Appln. No.: 10/700,548

Group Art Unit: 1762

Confirmation No.: 6075

Examiner: Azpuru, Carlos A.

Filed: November 05, 2003

For: COATED IMPLANTS

### RESPONSE TO ELECTION OF SPECIES

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Examiner has identified the application as containing claims directed to the following distinct species: A method of producing an implant of comprising either formula I, II, or IV, wherein x = formula VI (claims 52-69 and 78-92). However, Applicants submit that the Examiner has mischaracterized the claims. Claims 52-69 and 78-92 are directed to a method in which a cross-linkable polymer is formed from ethylenically unsaturated monomers of formula I, II and IV. Therefore, Applicants traverse the Examiner's written Election of Species Requirement dated July 11, 2005.

During a telephone interview with the Examiner on August 11, 2005, the Examiner acknowledged that claims 52-69 and 78-92 are directed to a method in which a cross-linkable polymer is formed from ethylenically unsaturated monomers of formulas I, II, and IV. The Examiner issued an oral restriction requirement indicating that Applicants must elect a single disclosed species for each of the monomers of formulas I, II, and IV for prosecution on the merits to which the claims shall be restricted. Applicant has been advised that a response to this

Appln. No.: 10/700,548  
Response to Election of Species

requirement shall include an identification of the species that is elected and a listing of all claims readable thereon.

In response to the Examiner's requirement, in claims 52-69 and 78-92, which are subject to the election requirement, Applicant elects the following species of each of the monomers of formulas I, II, and IV:

Formula (I): 2-methacryloyloxyethyl-2'-trimethylammoniummethylphosphate;

Formula (II) choline methacrylate;

Formula (IV) 3-(trimethoxysilyl)propyl methacrylate.

With regard to Formula VI, in the monomer elected for Formula (I) above, Applicants elect a species in which e represents 2, and each of R<sup>8</sup> is methyl.

Applicants submit that all the claims are generic and read on a polymer formed from the elected species of monomers. The Examiner has acknowledged that at least claims 39-51 and 70-77 are generic.

Applicant reserves the right to file a Divisional Application directed to any of the non-elected claims.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

  
Jennifer R. Leach  
Registration No. 54,257

Date: August 11, 2005